

EXHIBIT R



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

D. Todd Doss, Esq.
Federal Defender, Middle District of Florida
Suite 300
201 South Orange Avenue
Orlando, FL 32801

Re: Appeal No. DOJ-AP-2018-005344
Request No. 2017-1023
JKD:ADF

VIA: U.S. Mail

Dear Mr. Doss:

You appealed from the action of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) on your Freedom of Information Act request for access to records concerning your client, Daniel Troya. You also requested records concerning several other third parties. I note that your appeal concerns the adequacy of the search for responsive records, and the withholdings made by ATF in its response dated May 4, 2018.

After carefully considering your appeal, and as a result of discussions between ATF personnel and this Office, I am releasing additional portions of one page in part to you, a copy of which I have enclosed. I am otherwise affirming, on partly modified grounds, ATF's action on your request.

The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. ATF properly withheld certain information because it is protected from disclosure under the FOIA pursuant to:

5 U.S.C. § 552(b)(3), which concerns matters specifically exempted from release by statute (in this instance, 26 U.S.C. § 6103, which pertains to tax return information);

5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties;

5 U.S.C. § 552(b)(7)(C), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties; and

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5 U.S.C. § 552(b)(7)(E), which concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures or guidelines for law enforcement investigations or prosecutions.

Please be advised that for each of these exemptions, it is reasonably foreseeable that disclosure of the information withheld would harm the interests protected by these exemptions.

Additionally, regarding the portions of your request concerning named third parties, to the extent that non-public responsive records exist, disclosure of law enforcement records concerning a third-party individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. See 5 U.S.C. § 552(b)(7)(C). Further, it is reasonably foreseeable that releasing any non-public records, to the extent such records exist, would harm the interests protected by this exemption. Because any non-public records responsive to this portion of your request would be categorically exempt from disclosure, ATF was not required to conduct a search for the requested records. See, e.g., DOJ v. Reporters Committee for Freedom of the Press, 489 U.S. 749, 780 (1989) (holding "as a categorical matter" that release of investigatory records concerning a third party "can reasonably be expected to invade" that person's privacy and that such an invasion is unwarranted in the absence of an overriding public interest).

As to your appeal concerning the adequacy of ATF's search for responsive records subject to the FOIA, I have determined that ATF's response was correct and that it conducted an adequate, reasonable search for such records.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of ATF in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

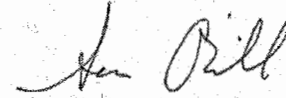
For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison

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for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

6/18/2018

X 

Sean R. O'Neill

Chief, Administrative Appeals Staff

Signed by: OIP

Enclosure

**U.S. Department of Justice**Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

ATF Case Number 764055-07-0018

This recommendation for prosecution relates to alleged violations of the Federal Firearm laws by (b) (6), (b) (7)(C) a previously convicted felon, who from on or about June 10, 2006 to on or about October 25, 2006 did unlawfully possess firearms that had previously traveled in interstate or foreign commerce; used or carried a firearm during or in relation to, or possess a firearm in the furtherance of, a drug trafficking crime; possessed a NFA firearm not registered in the National Firearms registration and transfer record. On or about October 25, 2006, Daniel TROYA and (b) (6), (b) (7)(C) who are previously convicted felons, allegedly violated Federal Firearm laws by unlawfully possess firearms that had previously traveled in interstate or foreign commerce; used or carried a firearm during or in relation to, or possess a firearm in the furtherance of, a drug trafficking crime; possessed a NFA firearm not registered in the National Firearms registration and transfer record. On or about October 25, 2006, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) allegedly violated Federal Firearm laws by using or carrying a firearm during or in relation to, or possess a firearm in the furtherance of, a drug trafficking crime; possessed a NFA firearm not registered in the National Firearms registration and transfer record. These alleged violations took place in Palm Beach County, Southern Judicial District of Florida. In addition, this recommendation for prosecution relates to the potential forfeiture of property seized from the named defendant for violation of the Federal firearm laws.

DEFENDANT AND ARREST STATUS**(b) (6), (b) (7)(C)**

TROYA, Daniel – Not indicted, not arrested

(b) (6), (b) (7)(C)**STATUTES VIOLATED****(b) (6), (b) (7)(C) TROYA, Daniel; (b) (6), (b) (7)(C)**

Title 18 USC Section 922(g)(1) – Unlawful possession of a firearm by a person previously convicted felon.